

IN THE SENATE OF THE UNITED STATES.

MARCH 10, 1880.—Ordered to be printed.

Mr. TELLER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 200.]

The Committee on Claims, to whom was referred the bill (S. 200) for the relief of Nathaniel P. Harben, have had the same under consideration, and submit the following report:

The claimant, whose loyalty is duly proved, claims that he was the owner of 340 boxes of tobacco, stored at Oxford and Covington, in the State of Georgia; that in July, 1864, a body of United States troops, under the command of General Garrard, seized the said tobacco, and transported the same in army wagons to General Sherman's army, where it was divided among the soldiers. The claimant alleges that the tobacco was seized under the order of General Sherman, the material part of which is in these words:

Try and capture and destroy some locomotives and cars, depots and stores at Covington, but of personal property only take what is necessary for your own use.

With reference to the seizure of the tobacco General Sherman says as follows:

I have no doubt tobacco was wanted at Covington, Ga., on July 22, 1864, as at Atlanta, in September, but I never had any knowledge that any tobacco was there. Garrard's cavalry made a raid to Covington about that time.

W. T. SHERMAN,
General.

FEBRUARY 7, 1874.

General Sherman says further, in reply to an inquiry made by the chairman of the committee, as follows:

HEADQUARTERS ARMY OF THE UNITED STATES,
Washington, D. C., April 18, 1874.

SIR: I have the honor to acknowledge receipt of your communication of the 16th instant, inclosing the brief for claimant in the "claim of N. P. Harben, of Georgia," for tobacco seized at Covington and Oxford, on or about the 22d day of July, 1864.

Of the seizure and use of the tobacco I have no personal or official knowledge whatsoever. During the night of July 20, 1864, I was in command of a large army closing down on the city of Atlanta, Ga., with one sole object, to capture or destroy that city, with the rebel army therein. To this end I ordered a division of cavalry, then commanded by Maj. Gen. Kenner Garrard, then an officer of the Regular Army, but now a citizen of Cincinnati, Ohio, to proceed with his division eastward as far as Covington, thirty miles, to destroy two railroad bridges by which the Augusta Railroad crossed the Ulocofauhatchee and Yellow Rivers, tributaries to the Ocmulgee, and thereby cut off that avenue of supply to our opponents. General Garrard returned on the 24th to his position about Decatur, five miles to the left rear of the main army, and there reported to me that he had perfectly fulfilled his orders, had destroyed the two bridges in question, and had further damaged the said railroad, with cars and locomotives, and

he reported the capture of certain horses, mules, and prisoners of war, but according to my memory he did not report the capture of any tobacco; but being detached so far from the main army, by the laws and usages of war he was invested with supreme authority, and could seize, and appropriate to the use of his men, anything they needed, or the loss of which would cripple the resources of our antagonists. Had he reported to me that he had seized and used this tobacco I should surely have approved or acquiesced in his action, for we did not at that crisis stop long to discuss the title to personal property. As a rule I endeavored, as far as circumstances permitted, to check the tendency to "cause wanton waste," which is the natural impulse of invading armies, but always authorized the appropriation of such things as soldiers needed to keep them strong and contented; and tobacco is one of those things which, whether authorized or not, soldiers will have by fair means or foul. I do not wish, however, to be construed as advocating Mr. Harben's claim, for, whatever his sentiments may have been, he was in bad company; his property was lost to him, and our army recovered possession of it, and were entitled to salvage at the rate of about a hundred per cent.

I have the honor to be your obedient servant,

W. T. SHERMAN,
General.

Hon. JOHN SCOTT,
Chairman Committee on Claims, United States Senate.

A letter from General Garrard is with the papers filed to support the claim, and is as follows:

CINCINNATI, April 4, 1874.

DEAR SIR: In reply to your inquiry concerning the tobacco taken at Covington, Ga. at the time the railroad and depots at that place were destroyed by my division of cavalry, I have to say that, to my best recollection, an amount of tobacco was seized. It was taken with the command back to their camp near the army, and there divided out to the troops. I am under the impression there were several wagon-loads taken at that time, and that on return to the army it was divided by my order equally with the regiments of my division.

I used some of this tobacco, and it was of the best quality of plug-tobacco.

Very respectfully,

KENNER GARRARD.

N. P. HARBEN, Esq.

The petitioner preferred his claim before the Southern Claims Commission, and it was disposed of as follows:

No. 329. *The claim of N. P. Harben, of Whitfield County, in the State of Georgia.*

This claim is for 342 boxes of tobacco, valued at \$51,438. Claim rejected.

This claim is for tobacco taken in July, 1864, by a party of Union soldiers at Covington and Oxford, Ga. It was carried off by the soldiers on horseback and in large quantities in wagons. It was taken to the camp of the army in the vicinity of Atlanta. What was then done with it does not appear, but probably most of it, perhaps all, was used by the army. Tobacco was not an army supply. The government has never paid for tobacco, except in the one single and exceptional case of tobacco taken at Atlanta under the general order issued by General Sherman on the 8th September, 1864, where it has been paid for as taken in an emergency by an order of the Commanding General of the Army in lieu of other rations. Claim must be rejected.

A. O. ALDIS,
Commissioner of Claims.

Your committee see no reason to doubt the correctness of the conclusion of the Southern Claims Commission, and therefore recommend that said bill be indefinitely postponed, and said claim not allowed.